

Montana Senate Joint Resolution 5

Senate Judiciary Committee

January 23rd, 2013

Testimony of North Dakota State Senator Curtis Olafson

National Spokesman for the National Debt Relief Amendment.

Montana Senate Joint Resolution 5 is part of a nationwide effort to invoke the rights of state legislatures under Article V of the United States Constitution to make application to Congress to convene an Amendments Convention for the purpose of proposing a single amendment to our Constitution. The proposed amendment is, "*An increase in the federal debt requires approval from a majority of the legislatures of the separate states.*"

This idea was first proposed by the Restoring Freedom Foundation, a Texas based non-profit, and has been thoroughly researched and strongly endorsed by the Goldwater Institute in Phoenix, Arizona. The nationwide effort has been branded as the National Debt Relief Amendment (NDRA). The NDRA was first approved in North Dakota, and has also been approved in Louisiana. In both North Dakota and Louisiana, the NDRA passed by wide margins in both chambers of both Legislatures with bi-partisan support. The Louisiana House passed the NDRA on a unanimous vote. The NDRA is currently active in more than 20 additional states.

The NDRA is a non-partisan effort for the simple reason that the federal debt crisis is not a partisan issue. We all have to acknowledge that the debt has increased under the control of both parties. Moreover, people from all parts of the political spectrum are rightly concerned about the federal debt. Everyone universally understands and agrees that the level of federal debt is a serious problem. Many believe that it is so serious that it is an imminent threat to the very sovereignty of our country.

Everyone agrees that we have a serious problem, but some offer old ideas as the solution to the problem. Some say, "We need to change the people in Congress." Others say, "We need to change the party in power." We have changed the party in power more than once and more than twice. We have changed people and we have changed parties and the problem continues to grow. The problem is not based on people and it is not based on party. The problem is systemic and the system and the ground rules need to be changed.

SENATE JUDICIARY
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BY SJS

As of today, the federal debt of record has reached \$16.4 trillion dollars, which translates to over \$52,000 per man, woman, and child in the US. Not every man, woman, and child is a taxpayer, so each taxpayer's share of the debt is now almost \$146,000. The debt per taxpayer figure has increased about \$8,000 since March of 2012. The source for these numbers is the website <http://www.usdebtclock.org/>. The site gives a sobering view of the out-of-control spinning meter that is our federal debt.

You may be hearing from opponents to this resolution that you should fear a “runaway convention.” This claim has been repeated so often that it has achieved urban legend status, but it has no basis in truth or historical perspective. Recent research by nationally respected constitutional scholars proves that this fear is unfounded. The NDRA resolution has specific language that requires that the convention be strictly limited to the consideration of this one proposed amendment. We are making sure that all states in which the NDRA is introduced include this limiting language. There are complex legal and constitutional reasons why one need not fear a runaway convention, but there are also some very compelling political reasons why the process should not be feared.

Here are some facts about how an Article V Amendments convention would be organized and run.

- Before a convention could be convened, 34 states would need to propose the same amendment or amendments. That requirement means that a powerful mass of political force has built across the country behind one amendment idea.
- Congress acts in a ministerial capacity only, and upon receiving the “applications” of 34 states, is compelled to issue a call for a time and a place for a convention.
- The convention is a task force of the states. State legislatures (not Congress, not the President) choose their own delegates, which are more properly called “commissioners.”
- The commissioners act as the agents of their state legislatures. Any commissioner acting beyond the scope and call of the convention could be recalled and replaced.
- A convention acting beyond the scope and call of the resolution could, and would, be challenged in the courts.

- Congress would have the authority, and the responsibility, to refuse to send back to the states for ratification any proposed amendment that was outside of the scope and call of the convention.
- The ultimate protection that would prevent the adoption of a radical, dangerous or extremist amendment was wisely designed into the process by our Founding Fathers.

Unless and until 38 states ratify a proposed amendment, nothing changes and the Constitution is untouched.

It is clear that our Founding Fathers intended that we, as state legislators, would understand that not only do we have a right to use Article V, but moreover, that we have a **duty** to use Article V when we see a serious challenge facing our nation that is not being solved by Congress. If ever there was an issue for which we should be using Article V, it is our out-of-control federal debt crisis. If ever there was a time in the history of our country when we should be using Article V, it is now.

The strength of the proposed amendment is its simplicity. The amendment does not dictate policy. It does not require spending cuts or tax increases. It only specifies that if Congress feels that they have a compelling need to increase the federal debt, they need to come to the government closest to the people-our state legislatures-to seek their approval. It simply provides a check and balance to prevent Congress from arbitrarily and unilaterally raising the debt limit and charging off that debt to our children and grandchildren. They did not sign a mortgage and they did not cast a vote, but their generation is going to be forced to pay for the spending of our generation. We must act now. A runaway Article V amendments convention is a myth. A runaway federal debt of \$16.5 trillion is a reality.

"We may safely rely on the disposition of the State legislatures to erect barriers against the encroachments of the national authority." Alexander Hamilton in Federalist 85

"Blessed are the young, for they shall inherit the national debt." Herbert Hoover

"I wish it were possible to obtain a single amendment to our Constitution. I would be willing to depend on that alone for the reduction of the administration of our government. I mean an additional article taking from the Federal Government the power of borrowing."

Thomas Jefferson